



DEPARTMENT OF STATE

22 CFR Part 122

[Public Notice: 11103]

RIN 1400-AF13

International Traffic in Arms Regulations: Temporary Reduction in Certain Registration Fees

AGENCY: Department of State.

ACTION: Temporary reduction in certain fees.

SUMMARY: The Department of State is making a temporary change in the Tier I and Tier II and new registrant payment guidelines on the Directorate of Defense Trade Controls (DDTC) Web site at www.pmddtc.state.gov.

These guidelines outline the registration fees charged to persons who engage in the United States in the business of manufacturing, exporting, or temporarily importing defense articles, furnishing defense services, or who engage in brokering activities pursuant to the International Traffic in Arms Regulations (ITAR). This temporary change is in the interest of the security and foreign policy of the United States. Further, it is consistent with the March 13, 2020 declaration by President Trump of a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and is warranted due to the extraordinary challenges to U.S. defense trade and the

health of the Defense Industrial Base as a result of the exceptional and undue hardships and risks to safety caused by the public health emergency related to COVID-19. This temporary reduction in certain fees is intended to help mitigate the economic impact of the COVID-19 public health emergency on U.S. Defense Industrial Base and takes into account the operational requirements of DDTC that the fees fund.

DATES: The temporary reduction in fees was effective May 1, 2020, and shall expire on April 30, 2021, unless modified by a subsequent notification in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Neal Kringel, Office of Defense Trade Controls Management, U.S. Department of State, telephone (202) 663-1282, or e-mail DDTCResponseTeam@state.gov. ATTN: Temporary Fee Reduction.

SUPPLEMENTARY INFORMATION: This document serves to inform entities registered with the Directorate of Defense Trade Controls (DDTC) pursuant to ITAR §§ 122.1(a) and 129.3(a), of a temporary reduction in registration fees charged to entities in Tier I and Tier II and new registrants. (For more information on DDTC registrations, please visit the “Conduct Business” page then select the “Registration” tab and the “Payment of Registration” tab of the DDTC website). ITAR § 122.1(a) provides that any

person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with DDTC. ITAR § 129.3(a) further provides that, with limited exceptions, any regulated person who engages in brokering activities is required to register with DDTC. ITAR § 122.3 provides that a person who is required to register must do so on an annual basis by submitting a completed Statement of Registration (form DS-2032) and payment of a fee following the payment guidelines available on the DDTC Web site at *www.pmddtc.state.gov*.

What is the purpose of this change?

Given the extraordinary impact of the COVID-19 pandemic on the national economy and Defense Industrial Base, DDTC is temporarily reducing registration fees for DDTC registrants in Tier I and Tier II to \$500 for registrations whose original expiration date is between May 31, 2020 and April 30, 2021. Also, DDTC is reducing registration fees to \$500 for new applicants who submit their registration application between May 1, 2020 and April 30, 2021. All new registrants are in Tier I in the first year. This will allow new registrants and existing registrants in Tiers I and II – including the many small to medium sized enterprises that must register under these tiers – to receive and plan for a reduced registration fee over the

course of the coming year. The fee structure for Tier III entities remains unchanged at this time given the higher costs incurred by DDTC in processing the volume of licenses and other relevant submissions by entities in Tier III. Also, Tier III already has a provision for a reduced fee if the fee calculated above is greater than 3 percent of the total value of all applications. In such cases, the fee will be 3 percent of the total value of all applications or \$2,750, whichever is greater. These measures were informed by consultations with U.S. industry, in particular the Defense Trade Advisory Group, as well as with DDTC's interagency partners in the Departments of Defense and Commerce. This temporary reduction in fees shall apply only through April 30, 2021, at which time fees for entities in Tiers I and II will return to the rates that were in effect on April 1, 2020, unless otherwise extended by a subsequent notification in the *Federal Register*.¹

Temporary Fee Reduction

For reasons stated above, the State Department amends the fee payment schedule referenced in 22 CFR 122.3 and posted on the DDTC website as follows:

¹ Proclamation 9994 of March 13, 2020, 85 FR 15337 (Mar. 18, 2020).

“DDTC is temporarily reducing registration fees for DDTC registrants in Tier I and Tier II to \$500 for registrations whose original expiration date is between May 31, 2020 and April 30, 2021. Also, DDTC is reducing registration fees to \$500 for new applicants who submit their registration application between May 1, 2020 and April 30, 2021. All new registrants are in Tier I in the first year. This will allow new registrants and existing registrants in Tiers I and II, the majority of which are small and medium-sized enterprises, to receive a reduced registration fee over the course of the coming year. The fee structure for Tier III entities remains unchanged at this time. We anticipate that this temporary reduction in fees for Tier I and Tier II and new registrants will save regulated industry over \$20 million over the course of the coming year. The temporary reduction in fees is warranted as a result of the exceptional and undue economic hardship caused by the public health emergency caused by the COVID-19 pandemic.”

“This temporary reduction in fees shall apply only through April 30, 2021, at which time fees for entities in Tiers I and II will return to the rates that were in effect on April 1, 2020 unless otherwise extended by a subsequent notice in the *Federal Register*.”

Regulatory Findings

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and defense services is a military or foreign affairs function of the United States Government and rules implementing this function are exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1).

Regulatory Flexibility Act

Since the Department is of the opinion that this rulemaking is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule under the criteria of 5 U.S.C. 804. Based on the criteria of 5 U.S.C. 804(2),

the Department does not believe this rulemaking will have an annual effect on the economy of \$100,000,000 or more. The Department estimates that this rulemaking will result in the elimination of approximately \$20,000,000 in registration fees that otherwise would have been collected by the Department.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking is a significant but not an economically significant rule, under the criteria of

Executive Order 12866, and is consistent with the provisions of Executive Order 13563.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

Executive Order 13771

This rulemaking is not subject to the requirements of EO 13771 since it relates to a military or foreign affairs function of the United States.

Zachary A. Parker,
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Office of Directives Management,
U.S. Department of State.

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